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CITY OF RICHMOND *v.* THOMPSON'S HEIRS.

March 12, 1914.

[81 S. E. 105.]

1. Eminent Domain (§ 195*)—Petition—Interest Sought to Be Taken.—A city whose petition, filed under Code 1904, § 1105f, cl. 4, 25, providing that it shall set forth the interest intended to be taken, sought to condemn the entire interest of defendants in an alley, could not ask that a different interest be condemned, without amendment or consent of defendants.

[Ed. Note.—For other cases, see Boundaries, Cent. Dig. §§ 95-101; 524; Dec. Dig. § 195.* 5 Va.-W. Va. Enc. Dig. 101.]

2. Boundaries (§ 20*)—Description—Highway.—A conveyance of land bounded on a highway includes the soil to the center of the highway, provided the grantor then owns to the center and there are no words or specific description to show a contrary intent.

[Ed. Note.—For other cases, see Boundaries, Cent. Dig. §§ 123-130, 132; Dec. Dig. § 20.* 2 Va.-W. Va. Enc. Dig. 594.]

3. Boundaries (§ 13*)—Description—Private Stream.—A conveyance of land bounded on a private stream includes the soil to the center of the stream, provided the grantor then owns to the center and there are no words or specific description to show a contrary intent.

[Ed. Note.—For other cases, see Boundaries, Cent. Dig. §§ 95-101; Dec. Dig. § 13.* 2 Va.-W. Va. Enc. Dig. 590.]

4. Boundaries (§ 21*)—Description—Private Way.—A conveyance of land bounded on a private way includes the soil to the center of the way, provided the grantor then owns to the center and there were no words or specific description to show a contrary intent; and the fact that the length of the side lines as given does not extend to the center of the way does not exclude the operation of the rule.

[Ed. Note.—For other cases, see Boundaries, Cent. Dig. § 131; Dec. Dig. § 21.* 2 Va.-W. Va. Enc. Dig. 597.]

5. Boundaries (§ 21*)—Description—Alley.—Where the call in a deed was for an alley owned by the grantor and bounding his land at that point and there was nothing in the deed showing that he intended to reserve title to the soil therein, the deed carried title to the bed of the alley.

[Ed. Note.—For other cases, see Boundaries, Cent. Dig. § 131; Dec. Dig. § 21.* 2 Va.-W. Va. Enc. Dig. 597.]

6. Eminent Domain (§ 85*)—Compensation—Alleyway.—Owners of the fee-simple estate in an alley, subject to a right of way in favor of certain adjoining owners on a taking of their entire interest, were entitled to its market value subject to the existing rights of way.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. §§ 221-226; Dec. Dig. § 85.* 5 Va.-W. Va. Enc. Dig. 91.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

7. Eminent Domain (§ 100*)—Compensation—Additional Servitude on Highway.—The location of an additional servitude on a highway cannot be imposed without compensation to the owner of the fee.

[Ed. Note.—For other cases, see *Eminent Domain*, Cent. Dig. §§ 256-264, 267; Dec. Dig. § 100.* 5 Va.-W. Va. Enc. Dig. 88.]

Error to Hustings Court of Richmond.

Condemnation proceeding by the city of Richmond against the heirs of W. H. Thompson. Decree awarding damages to defendants, and the city brings error. Affirmed.

H. R. Pollard, of Richmond, for plaintiff in error.

Alfred E. Cohen, of Richmond, for defendants in error.

BOARD OF SUP'RS OF HENRICO COUNTY et al. v. COMMONWEALTH ex rel. CITY OF PETERSBURG et al.

March 19, 1914.

[81 S. E. 112.]

1. Constitutional Law (§ 46*)—Determination of Constitutional Questions.—The court will not pass on the constitutionality of an act, if the case can be determined on other points.

[Ed. Note.—For other cases, see *Constitutional Law*, Cent. Dig. §§ 43-45; Dec. Dig. § 46.* 3 Va.-W. Va. Enc. Dig. 149.]

2. Statutes (§ 159*)—Repeal.—The law does not favor a repeal by implication, unless the repugnance be quite plain, and then only to the extent of such repugnancy.

[Ed. Note.—For other cases, see *Statutes*, Cent. Dig. § 229; Dec. Dig. § 159.* 12 Va.-W. Va. Enc. Dig. 779.]

3. Taxation (§ 365*)—Railroads—Assessment—Repeal of Statute.—Act March 13, 1912 (Laws 1912, c. 214), amending section 27 of the Revenue Law (Laws 1902-04, c. 148), regulating the assessment of rolling stock of railroads for local taxation, repeals, by implication, the provisions relating to that subject made by Act March 12, 1912 (Laws 1912, c. 139); the two acts being repugnant to each other.

[Ed. Note.—For other cases, see *Taxation*, Cent. Dig. §§ 608-611; Dec. Dig. § 365.* 12 Va.-W. Va. Enc. Dig. 779.]

Error to State Corporation Commission.

Proceedings before the State Corporation Commission by the Commonwealth on the relation of the City of Petersburg and others against the Board of Supervisors of Henrico County and others. From an order refusing to certify an assessment of rolling stock, the defendants bring error. Affirmed.

E. P. Buford, of Lawrenceville, *Randolph Harrison*, of

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.